The Litigation Section
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By Elizabeth Humphreys

— Year 2000 —

C*alifornia Litigation's* "Year 2000" issue takes an eclectic look at the practice of law at the turn of the century.

Gerald F. Uelmen predicts that we are moving toward a "two tiered" justice system; a speedy and efficient system of private justice for the rich and a decaying and underfunded public system for the less fortunate. He challenges lawyers to look beyond their parochial political agendas and question the viability and efficacy of a "two tiered" system.

Paulette E. Taylor addresses the benefits of using focus groups or mock trials in litigation preparation. She reviews the advantages that may be gained by litigators and clients when focus groups are used efficiently and effectively, but also warns that improper timing, poor preparation and misuse of focus group consultants may result in misleading information and invalid results.

The Honorable William F. Rylarrsdam explores the *Restatement (Third) of Torts: Products Liability* adopted in June 1997 and the controversy surrounding section 2(b), which requires the claimant to demonstrate the availability of an alternative design. In the Judge's opinion, the new Restatement correctly reflects the current status of California law relating to design defects with one very significant exception; in California, the defendant carries the burden of proof with respect to alternative design.

Michael S. Fields examines the statutory laws and rules regarding arbitration with particular emphasis on how the Federal Arbitration Act impacts California arbitrations. He predicts that the California courts' recent attention to F.A.A. preemption will result in consistent enforcement of arbitration agreements involving interstate commerce.

The Honorable Gary E. Strankman offers a report on the formation, organization, recommendations and goals of the Appellate Process Task Force. In his view, the work of the Task Force, while significant, has just begun because there are no "quick fixes" or "one size fits all" solutions for judicial reform.

Gene Tanaka and *Piero C. Dallarda* discuss the importance of creating a proper administrative record before attempting to litigate an administrative decision in the trial court. The authors warn practitioners that failure to properly create, prepare and submit the administrative record may result in an attorney being precluded from litigating issues of fact and law essential to winning a case.

Charlene M. Morrow scrutinizes the unique issues that must be considered when settling patent cases. She forecasts that with more individuals and companies seeking patent protection for their work, more lawyers will need to become familiar with the fundamental aspects of patent law and patent litigation.

Thomas J. McDermott, Jr., with humor and a touch of whimsy, challenges the legal profession to confront the distinctions between being a "profession" and being a "business." He argues that the practice of law should not be a business and lawyers should seek to regain their professionalism.

The Honorable Eileen C. Moore's Judicial Opinion reviews the importance of "Judicial Voir Dire" and encourages judges and attorneys to view judicial voir dire as an essential tool in preventing juror bias. She analyzes the societal pressures that make jurors reticent to expose their biases and challenges lawyers and jurists to improve their voir dire skills to ensure fairness in the judicial process.

— Looking Ahead —

Our next issue, "The Legal Profession in Transition," reviews the changing aspects of the profession. We will feature articles on keeping and retaining associates, sexual harassment in law firms, law firm break ups, multidisciplinary practices, investing in clients and a number of other issues.

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The journal is sent free to members of the Litigation Section.

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